

(2) The product shall be labeled on the outside of its shipping container with the statement(s):

(i) When the variation concerns net weight and/or drained weight or volume, “Product Mislabeled. Actual net weight (drained weight or volume where appropriate) may be as low as ___% below labeled quantity. This Product Not for Retail Distribution”, the blank to be filled in with the maximum percentage variance between the labeled and actual weight or volume of contents of the individual packages in the shipping container, and

(ii) When the variation is in regard to a fill of container standard, “Product Mislabeled. Actual fill may be as low as ___% below standard of fill. This Product Not for Retail Distribution”.

(3) The statements required by paragraphs (t)(2) (i) and (ii) of this section, which may be consolidated where appropriate, shall appear prominently and conspicuously as compared to other printed matter on the shipping container and in boldface print or type on a clear, contrasting background in order to render them likely to be read and understood by the purchaser under ordinary conditions of purchase.

[42 FR 14308, Mar. 15, 1977, as amended at 42 FR 15673, Mar. 22, 1977]

§ 101.108 Temporary exemptions for purposes of conducting authorized food labeling experiments.

(a) The food industry is encouraged to experiment voluntarily, under controlled conditions and in collaboration with the Food and Drug Administration, with and other formats for presenting nutrition and other related food labeling information that is consistent with the current quantitative system in §§ 101.9 and 105.66 of this chapter.

(b) Any firm that intends to undertake a labeling experiment that requires exemptions from certain requirements of §§ 101.9 and 105.66 of this chapter should submit a written proposal containing a thorough discussion of each of the following information items that apply to the particular experiment:

(1) A description of the labeling format to be tested;

(2) A statement of the criteria to be used in the experiment for assigning foods to categories, e.g., nutrient or other values defining “low” and “reduced”;

(3) A draft of the material to be used in the store, e.g., shelf tags, booklets, posters, etc.;

(4) The dates on which the experiment will begin and end and on which a written report of analysis of the experimental data will be submitted to FDA, together with a commitment not to continue the experiment beyond the proposed ending date without FDA approval;

(5) The geographic area or areas in which the experiment is to be conducted;

(6) The mechanism to measure the effectiveness of the experiment;

(7) The method for conveying to consumers the required nutrition and other labeling information that is exempted from the label during the experiment;

(8) The method that will be or has been used to determine the actual nutritional characteristics of foods for which a claim is made; and

(9) A statement of the sections of the regulations for which an exemption is sought.

(c) The written proposal should be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857. The proposal should be clearly identified as a request for a temporary exemption for purposes of conducting authorized food labeling experiments and submitted as a citizen petition under § 10.30 of this chapter.

(d) Approval for food labeling experiments will be given by FDA in writing. Foods labeled in violation of existing regulations will be subject to regulatory action unless an FDA-approved exemption to the specific regulation has been granted for that specific product.

(e) Reporting requirements contained in § 101.108(b) have been approved by this Office of Management and Budget and assigned number 0910-0151.

[48 FR 15240, Apr. 8, 1983, as amended at 59 FR 14364, Mar. 28, 1994; 62 FR 15343, Mar. 31, 1997]